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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,700	03/04/2002	Mikko Makipaa	4208-4076	2805
27123	7590	02/27/2006		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,700

Applicant(s)

MAKIPAA, MIKKO

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
|--|---|

DETAILED ACTION

1. Claims 1-27 have been examined. Application 10/086,700 (METHOD AND SYSTEM FOR PROVIDING CONTENT ITEMS TO USERS) has a filing date 03/04/2002

Response to Amendment

2. In response to Final Rejection filed 10/18/2005 the Applicant filed a Request for reconsideration on 01/30/2006. Applicant's amendment overcame the Claim 4 objection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halbert (US 6,101,484).

As per claims 1, 11 and 21, Halbert teaches:

A method of providing a content item to a plurality of user devices, comprising:

defining a collective earning threshold (see column 7, lines 50-62 "minimum offer threshold");

receiving a total collective payment from the plurality of user devices, wherein the total collective payment includes a plurality of individual user payments that are each

contributed by a respective one of the plurality of user devices (see column 3, lines 3-25);

Halbert fails to teach transmitting the content item at a premium quality level when the total collective payment is greater than or equal to the collective earning threshold and transmitting the content item at an impaired quality level when the total collective payment is less than the collective earning threshold. Halbert teaches a buying group for purchasing services (see Halbert abstract) however, failed to specify that the service being a transmission of content at a premium quality level. Official Notice is taken that it is old and well known in the computer art that the communication service providers' charge higher fees to consumers for transmitting a program via a broadband signal (i.e. faster download speed with a bigger image and better resolution) or a HDTV signal (i.e. higher resolution) in comparison for transmitting the same program to said consumers via a dial up or analog connection (i.e. slower download speed with a smaller image with less resolution). It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that buyers that want to receive high quality services would use the Halbert's group purchasing power method to lower the fees of said services and therefore, making said high quality services more affordable to said buyers. The fee for obtaining the high quality service would not be lowered if the buyers group purchase offer is less than the "minimum offer threshold" and therefore, the group buyers would not be able to receive a high quality transmission. Sellers would be motivated to lower the fees for transmitting

high quality services to buyers as said sellers would be compensated with a bigger purchase volume due to the group buying.

As per claims 2 and 12, Halbert teaches:

The method of claim 1, wherein the step of defining a collective earning threshold comprises selecting a threshold value from a time-varying threshold function (see column 7, line 55 - column 8, line 15).

As per claims 3 and 13, Halbert teaches:

The method of claim 1, but fails to teach further comprising the step of awarding a prize to one or more users according to a prize criterion. However, Official Notice is taken that it is old and well known in the business art to grant awards or recognition to the biggest contributor of a cause. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Halbert would give awards to buyers that contribute the most to a group purchase in order to compensate said buyers for allowing a group purchase order to be fulfilled due to reaching a "minimum offer threshold".

As per claims 4 and 14, Halbert teaches:

The method of claim 3, but fails to teach wherein the awarding step comprises awarding a prize to the user that has contributed the largest of the individual user payments. However, the same argument made in claim 3 is also made in claim 4.

As per claims 5 and 15, Halbert teaches:

The method of claim 1, but fails to teach wherein the step of transmitting the content item at a downgraded quality comprises reducing the resolution of images

included in the content item. However, the same argument made in claim 1 regarding the quality of transmission is also made in claim 5.

As per claims 6 and 16, Halbert teaches:

The method of claim 1, but fails to teach wherein the step of transmitting the content item at an impaired quality comprises reducing the size of one or more images included in the content item. However, the same argument made in claim 1 regarding this missing limitation is also made in claim 6.

As per claims 7 and 17, Halbert teaches:

The method of claim 1, but fails to teach wherein the step of transmitting the content item at an impaired quality comprises increasing the distortion of audio signals included in the content item. However, the same argument regarding the quality of transmission made in claim 1 is also made in claim 7. Official Notice is taken that it is old and well known in the computer art that a dial-up audio signals are of lesser quality than broadband audio or HDTV signal due to the smaller bandwidth.

As per claims 8 and 18, Halbert teaches:

The method of claim 1, wherein the step of transmitting the content item at an impaired quality comprises interrupting transmission of the content item (see column 4, lines 10-15; column 7, lines 55-65 "needs to attain critical mass and a minimum offer threshold to receive the service).

As per claims 9 and 19, Halbert teaches:

The method of claim 1, further comprising the step of transmitting a request for additional individual user payments to the plurality of user devices when the total

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collective payment is less than the collective earning threshold (see column 8, lines 60-67).

As per claims 10 and 20, Halbert teaches:

The method of claim 1, further comprising the step of transmitting a request for additional individual user payments to the plurality of user devices when the total collective payment is within a predetermined range of the collective earning threshold (see column 8, lines 62-67).

As per claim 27, Halbert teaches:

A wireless communications device for receiving a content item from a content provider, the wireless communications device comprising:

means for selecting a content item from a list of content item offerings provided by the content provider (see column 9, lines 10-20);

means for sending an individual user payment for the selected content item to the content provider (see column 9, lines 10-20);

means for receiving a revenue indicator from the content provider, the revenue indicator indicating a comparison between a total collective payment and a collective earning threshold (see column 8, lines 5-60), wherein the total collective payment includes the individual user payment and one or more payments from other communication devices (see column 8, lines 5-60); and

means for receiving the selected content item from the content provider in a manner that is determined by the comparison between the total collective payment and the collective earning threshold (see column 8, lines 45-60). Halbert does not teach

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wireless communication devices. However, Official Notice is taken that it is old and well known in the computer art to wirelessly communicate via the Internet or TV. Wireless transmission mode would not patentably distinguish the claimed invention from the prior art.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Halbert (US 6,101,484).

As per claims 22, 24, 25 and 26 Halbert teaches:

A method of providing a content item to a plurality of users, comprising:

defining a collective earning threshold (see column 7, lines 50-62 “minimum offer threshold”);

receiving a total collective payment from the plurality of users, wherein the total collective payment includes a plurality of individual user payments that are each contributed by a respective one of the plurality of users (see column 3, lines 3-25); and

scheduling the content item for transmission when the total collective payment is greater than or equal to the collective earning threshold (see column 9, lines 55-60).

As per claim 23, Halbert teaches:

The method of claim 22, further comprising the step of identifying a stale payment when the total collective payment is less than the collective earning threshold and providing a content item reselection opportunity to the user that placed the stale payment (see column 7, lines 55-65).

Response to Arguments

5. Applicant's arguments, filed 01/30/2006, with respect to the rejection(s) of claim(s) 1-27 under Brown have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Halbert.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Van Horn teaches a demand aggregation through online buying group.
- Goddard teaches a system for facilitating aggregate shopping.
- Adler teaches a method of selling products and/or services.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
February 14, 2006


RETTA YEHDEGA
PRIMARY EXAMINER